## TEXAS DEPARTMENT OF MOTOR VEHICLES BOARD MEETING

Friday, February 14, 2014

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

## BOARD MEMBERS:

Johnny Walker, Chair
Laura Ryan, Vice Chair
Robert "Barney" Barnwell, III
Luanne Caraway
Blake Ingram
Raymond Palacios
Victor Rodriguez
Marvin Rush
Joseph Slovacek

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2.	RULES Adop	LUTIONS FOR INDIVIDUAL CONSIDERATION - S tion of Rules under Title 43, Texas histrative Code Related to Credit Card and Automated Clearing House (ACH) Transaction Fees	7
		<ol> <li>Chapter 209, Finance         Section 209.2, Charges for Dishonored Checks         Section 209.23, Methods of Payment (Proposal Published December 20, 2013-38 Tex. Reg. 9212)</li> <li>Chapter 218, Motor Carriers         Section 218.15, Payment of Fees Section 218.42, Fees         (Proposal Published December 20, 2013-38 Tex. Reg. 9231)</li> </ol>	
		3. Chapter 219, Oversize and Overweight Vehicles and Loads Section 219.11, General Oversize/ Overweight Permit Requirements and Procedures (Proposal Published December 20, 2013- 38 Tex. Reg. 9223)	_
	В.	Related to Changes Mandated by House Bills 1692 and 2741, and Senate Bills 162 and 854, 83rd Legislature, Regular Session, 2013 Sections 215.2, et al. (Proposal Published December 20, 2013- 38 Tex. Reg. 9215)	13
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## PROCEEDINGS

MR. WALKER: Good morning. We are going to start right on time today.

My name is Johnny Walker. As the presiding officer, I'm pleased to open the Board Meeting of the Department of Motor Vehicles.

Before we begin today's meeting, please place cell phones and other communication devices in the silent mode, and that includes myself.

It is now nine o'clock a.m., Central Time. I am now calling the meeting for February 14, 2014 to order. I want to note for the record that the public notice of this meeting, containing all items on the agenda, was filed with the Office of the Secretary of State on January 31, 2014.

This meeting is being held by videoconference call, as authorized under Section 551.127 of the Government Code. Because this is a videoconference call meeting, several board members will be participating by live remote broadcast. Vice Chairman Ryan and Board Member Slovacek are participating from Houston; Board Member Ingram is participating from Dallas; Board Member Palacios is participating from El Paso; and Board Member Caraway and I are here in Austin at the department's headquarters at 4000 Jackson Avenue, Building 1, Lone Star

1	Conference Room. The Austin location is open and
2	available to the public.
3	If you wish to address the board during today's
4	meeting, please complete a speaker's card at the
5	registration table. To comment on an agenda item, please
6	complete a yellow card and identify that agenda item. If
7	it is not an agenda item, we will take your comments
8	during the public comment portion of this meeting.
9	Now I'd like to have a roll call of the board
10	members. Vice Chairman Ryan?
11	MS. RYAN: Present.
12	MR. WALKER: Board Member Caraway?
13	MS. CARAWAY: Present.
14	MR. WALKER: Board Member Ingram?
15	MR. INGRAM: Present.
16	MR. WALKER: Board Member Palacios?
17	MR. PALACIOS: Present.
18	MR. WALKER: Raymond can you see me?
19	MR. PALACIOS: Perfectly.
20	MR. WALKER: Good.
21	Board Member Slovacek?
22	MR. SLOVACEK: Present.
23	MR. WALKER: Let the record reflect that I,
24	Johnny Walker, am here too. We have a quorum. Also, let
25	the record reflect that Members Barnwell, Rodriguez and

Rush will not be participating today.

Before we begin today's meeting, I would like to remind all participants that this is a videoconference call meeting. Because this meeting is being held by videoconference call, there are a few things that will assist in making the meeting run smoother and assist the transcriptionist in getting an accurate record. Please identify yourself when you speak, speak clearly. Remember that there may be a slight delay so please wait a little longer than usual before responding to the participants at the other sites. Do not speak over others. Speakers should be sure to get recognized before speaking, and I will exercise full control more so than ever.

With that, I do not see that we have any cards from the public, so we will go into comments and announcements, agenda item 1.C. No public comments, I see that we do not have any public comments.

Before we go on to the next agenda item, I would like to say thank you to a few folks. Our meeting this morning would not have been possible without our friends over at TxDOT partnering with the DMV on the videoconference call services, especially Nancy Herrera in El Paso, Charlene Shirley in Houston, Emma McKee in Dallas providing our technical assistance at these remote locations.

I'd also like to acknowledge our wonderful DMV 1 regional staff members, Mark Randall in Dallas and 2 3 Charlotte Kirk in Houston, and also Melissa Frescas in El 4 Paso, and our IT staff here at Camp Hubbard: Guy 5 Montgomery, Bob Westcott, and Eric Hearon. 6 Thank you to the legal staff and the Office of 7 the General Counsel, and lastly to Ginger Lowe and Stacy Steenken for putting in a lot of effort to make sure 8 9 everything runs smoothly today. Having no additional comments or announcements, 10 11 we will move on to agenda item number 2. That was a long introduction. I'm glad I 12 13 didn't have to memorize that. 14 (General laughter.)

MR. WALKER: Okay. Let's go to agenda item number, resolutions for individual consideration, rules, adoption of rules under Title 43, Texas Administrative Code, relating to the credit card automated clearing house transaction fees. Linda M. Flores.

Before we start, can all of you hear at the videoconference locations?

MR. PALACIOS: I can hear loud and clear.

MR. WALKER: You, Blake?

MR. INGRAM: Yes.

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MS. RYAN: Houston is good.

MR. WALKER: Okay. Thank you.

MS. FLORES: Good morning. For the record, my name is Linda Flores. I'm the chief financial officer for the Texas Department of Motor Vehicles.

I'm here to request board approval to amend
Title 43, Texas Administrative Code, Chapter 209, Finance,
Chapter 218, Motor Carriers, and Chapter 219, Oversize and
Overweight Vehicles and Loads, relating to methods of
payment and service charges for payments by credit card
and automated clearing house.

The agency has several rules which affect our agency's functions related to payment of fees. The amendments are needed to make our rules consistent with fees charged through Texas.gov for processing credit card transactions for the payments of goods and services. The use of Texas.gov brings the agency into compliance with Government Code 2054.113 which requires state agencies to use the Texas.gov internet portal. Texas.gov is a collaborative public-private partnership between the State of Texas and Texas NICUSA.

The use of the Texas.gov internet portal also removes the financial burden from the Texas Department of Motor Vehicles for the payment of service charges associated with credit card transactions. We currently charge one dollar for credit card transactions, according

to current rules, however, the service charge that Texas DMV must pay to credit card companies is significantly higher in most cases. The Texas Department of Information Resources is authorized by statute to set the fee that a state agency may charge for a transaction through their portal.

In the summer of 2012, staff went to the Texas Department of Motor Vehicles Board to identify a major issue addressing the agency. We projected a gap of approximately \$2-1/2 million for credit card charges that the agency would have to pay in fiscal years '14 and '15. The Finance and Audit Committee of the board directed staff to identify options to recoup those funds by increasing the one dollar fee or applying a service charge to all credit card transactions, or identifying another viable solution. These proposed amendments are the proposed solution to address the projected funding shortfall.

The amendments to 209.2 include a requirement that the department has to approve the credit or debit card used. It excludes the use of a personal or business check to pay for permit fees under Transportation Code 502.094, makes it consistent with that code. It adds a paragraph to provide consistency with statute to address prepayment of department fees by escrow accounts. It also

adds a reference for the use of permit account card as an approved to prepay oversize/overweight permit fees. And it establishes that the service fee for all department credit cards and ACHs, automated clearing house transactions, will be set by the third party transaction processor, Texas NICUSA.

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The amendments to Chapters 218 and 219 also remove existing language to make it consistent with the Chapter 209, Finance.

The proposal for the amendments was published in the *Texas Register* on December 20, 2013. The comment period ended on January 21. No comments were received.

If the board adopts the amendments during today's board meeting, staff anticipates the publication of the adoption in the March 7 issue of the *Texas*Register, and an effective date of March 16, 2014.

We are taking a phased approach for our transition to Texas.gov. The first program to transition is the Oversize/Overweight program. We will continue to charge the current service charge until all these amendments become effective and Texas DMV implements any new service charge for a particular transaction.

And with that, I close and I'm available to answer any questions.

MR. WALKER: Do we have any questions of Ms.

1	Flores while we have her up here on the podium? Raymond.
2	MR. PALACIOS: I move to approve.
3	MR. WALKER: So we have a motion to approve.
4	Do we have a second?
5	MS. CARAWAY: I'll second.
6	MR. WALKER: We have a second by Board Member
7	Caraway. Do we have any questions or comments?
8	(No response.)
9	MR. WALKER: I have a question for you, Linda.
10	MS. FLORES: Yes, sir.
11	MR. WALKER: How much has the agency to this
12	date lost due to not having this particular item in place?
13	MS. FLORES: Before the Oversize/Overweight
14	program transitioned to us in January of 2012, we were
15	able to stay up with the service fees because our
16	transaction volume at the time was approximately 50,000
17	transactions, so we were able to keep up with it. Once
18	they moved over, our transaction volume increased to over
19	300,000 transactions, so most credit card companies charge
20	2.25 percent on any given transaction, so with the
21	transition of that particular program, we lost
22	approximately a million dollars, at least.
23	MR. WALKER: So we've lost about \$1 million
24	over the last ten months, I guess, twelve months?
25	MS. FLORES: Yes, sir.

MR. WALKER: And the next question I have is in the order it states the agency will not accept personal checks or company checks for the purchase of, I think it was for certain items. It's not restricted to everything, it's restricted to certain items in there.

MS. FLORES: Correct. And that's to make this consistent with that particular statute, and I believe it has to do with the 72-hour/144-hour permits.

MR. WALKER: So why wouldn't we try to standardize that also? I mean, in my mind it's kind of lopsided that you could use a check to buy this from the agency over here, but you can't use a check over here because the statute says that they don't take checks. So why would we not fix it so that it's standard across the board there?

MS. FLORES: Well, for those particular items, since they are temporary permits, we have a bigger risk of bounced checks. So in Transportation Code we have eliminated that method of payment. For other things the risk is not as high, because they could get their temporary permit, write us a bad check.

MR. WALKER: Is it the difference in people?

MR. DUNCAN: It's the difference in what

they're getting for the payment. They're getting something that's temporary, so if someone were to write us

1 a bad check for some sort of license that lasts a year, we 2 get the bad check, we still have some authority over them. 3 If they've got 144-hour permit and the check bounces, they 4 got the permit for nothing. 5 MR. WALKER: Well, couldn't we go and -- I run 6 a business, as a lot of people here do, and wouldn't it be 7 prudent on our payment maybe to go in and get people so 8 that they can be pre-approved so that we do take their checks? Establish credit? 9 MR. SLOVACEK: Chairman Walker. 10 MR. WALKER: Yes. 11 12 MR. SLOVACEK: We probably ought to approve 13 this as submitted and then talk about ways to improve the 14 recommendation going forward, but if you make any changes 15 today, we'd have to repost it and start the process over. 16 Okay. So we have a MR. WALKER: I agree. 17 motion and we have a second. All in favor? I will need 18 to call the roll one at a time, so I'm going to start with 19 Ms. Caraway, how do you vote? 20 MS. CARAWAY: Yes. 21 MR. WALKER: Mr. Ingram? 22 MR. INGRAM: Yes. 23 MR. WALKER: Mr. Slovacek? 24 MR. SLOVACEK: Yes.

ON THE RECORD REPORTING (512) 450-0342

MR. WALKER: Ms. Ryan?

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1 MS. RYAN: Yes. MR. WALKER: Mr. Palacios? 2 3 MR. PALACIOS: Yes. 4 MR. WALKER: And I, Johnny Walker, also vote 5 The motion carries unanimously. Let's move to the next item. 6 7 MS. FLORES: Thank you. MR. WALKER: Item 2.2, Bill, I guess -- no --8 item 2.B. 9 Yes, sir. Good morning. 10 MR. HARBESON: name is Bill Harbeson. I'm the director of the Enforcement 11 Division here at the Texas Department of Motor Vehicles. 12 13 I'm here today on agenda item 2.B. which staff 14 has effectually titled the Mega Rule because of its size. 15 The staff today is requesting adoption of this rule 16 package that amends Subchapters A, B, C, D, G and I of 17 Chapter 215 of Title 43 of the Administrative Code. 18 The new rules implement House 1692 which 19 transferred the hearings process for Lemon Law and 20 Warranty Performance cases from SOAH back to the 21 department. The rule package also provides for changes or 22 necessary changes brought about by 1692 to the procedures 23 found in those rules for these two types of cases, being 24 Warranty Performance and Lemon Law cases. The rule

package also implements the mediation requirements found

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in 1692 which provides that all cases, prior to going to SOAH, except for enforcement cases, must go through a mediation process in an attempt to resolve these cases at the earliest possible opportunity.

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The rule package implements Senate Bill 854 which clarifies the protest requirements for cases where a dealer is relocating to another location. The rules implement Senate Bill 162 which provides for an expedited procedure for the spouses of military members when applying for a license with the department.

Finally, the rules at various places implement the many changes brought about by House Bill 2741 which is the cleanup bill. Those rule changes simplify the licensing process and help streamline it further, they correct and simplified language found in the Occupations Code and Transportation Code, allowing for more flexibility to the department in organization and its operations.

There were no comments received during the posted period of the rule, and we are asking today for approval of this package by the board.

If there are any questions, I'll be glad to answer them.

MR. WALKER: Are there any questions from the videoconference world?

1	(No response.)
2	MR. WALKER: I'll entertain a motion.
3	MR. INGRAM: Mr. Chairman, Blake Ingram.
4	MR. WALKER: We have a motion by Blake Ingram
5	to accept the rule as posted.
6	MR. INGRAM: To adopt the amendments, yes,
7	please.
8	MS. CARAWAY: Second.
9	MR. WALKER: And we have a second by Ms.
10	Caraway. Any further discussion or questions or comments?
11	(No response.)
12	MR. WALKER: With that, I will call the roll.
13	Ms. Caraway, how do you vote?
14	MS. CARAWAY: Yes.
15	MR. WALKER: Mr. Slovacek?
16	MR. SLOVACEK: Yes.
17	MR. WALKER: Mr. Ingram?
18	MR. INGRAM: Yes.
19	MR. WALKER: Ms. Ryan?
20	MS. RYAN: Yes.
21	MR. WALKER: Mr. Palacios?
22	MR. PALACIOS: Yes.
23	MR. WALKER: And I, Johnny Walker, also vote in
24	favor of the motion. The motion carries unanimously.
25	With that, we move to adjournment, I assume. I

don't think there's anything else on our meeting today.

I would like to thank everybody for participating. I know it was brief, but we did need to get this taken care of so that we could get this credit card piece and these rules implemented. Appreciate you those of you that have come here, and those of you that got to stay at home, you can get back to work instead of having to drive all day like I'll have to do.

With that, we will call the meeting to an end.

(Whereupon, at 9:18 a.m., the meeting was concluded.)

CERTIFICATE

MEETING OF: TxDMV Board

4 LOCATION: Austin, Texas

DATE: February 14, 2014

I do hereby certify that the foregoing pages, numbers 1 through 17, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

 /s/ Nancy H. King 02/24/2014 (Transcriber) (Date)

On the Record Reporting 3636 Executive Ctr Dr., G-22 Austin, Texas 78731